



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR H.B. 2161

parental rights; schools; educational records

Purpose

Expands on parental rights relating to the prohibition against withholding information from the parent of a minor child (minor) or student and access to school and health care records. Outlines remedies for violations of parental rights. Modifies parental consent procedures for administering surveys to students.

Background

Arizona's Parents' Bill of Rights reserves all parental rights to a parent of a minor child without interference from the state, a political subdivision or other governmental entity (governmental entity) or any other institution. A governmental entity may not infringe on parents' rights to direct the upbringing, education, health care or mental health of their children without demonstrating that the compelling governmental interest as applied to the child is of the highest order, is narrowly tailored and is not otherwise served by a less restrictive means. Outlined rights include: 1) directing the education, upbringing and moral or religious training of the child; 2) making health care decisions for the child; 3) accessing and reviewing all records relating to the minor child; and 4) accessing and reviewing all medical records of the child unless otherwise prohibited. An attempt to encourage or coerce a minor child to withhold information from the child's parent is grounds for discipline of an employee of a governmental entity, except for law enforcement personnel. Statute declares that parents have inalienable rights that are more comprehensive than those listed in the Parents' Bill of Rights, unless legally waived or terminated. ([A.R.S. § 1-602](#)).

Outlined persons, including health care professionals and school personnel, are mandated to report to a peace officer or other specified entity a reasonable belief that: 1) a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or not explained by the available medical history as being accidental; or 2) there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow an infant's death ([A.R.S. § 13-3620](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Parental Rights

1. Prohibits a governmental entity or any official of a governmental entity acting under color of law from interfering with or usurping the fundamental right of parents to direct the upbringing, education, health care and mental health of their children.

FACT SHEET

H.B. 2161

Page 2

2. Authorizes a parent to bring suit against a governmental entity or official based on any violation of the Parents' Bill of Rights or any other action that interferes with or usurps the parent's right to direct the upbringing, education, health care and mental health of their children in:
 - a) superior court;
 - b) federal court if authorized by federal law; or
 - c) before an administrative tribunal of appropriate jurisdiction.
3. Authorizes a parent to raise a violation of the Parents' Bill of Rights as a claim or a defense.
4. Places the burden of proof on the governmental entity or official against which a suit is brought to demonstrate:
 - a) that the interference or usurpation is essential to accomplish a compelling government interest of the highest order, as long recognized in the state's history and traditions in the operation of its regulatory powers; and
 - b) the method of interference or usurpation used by the government is narrowly tailored and not otherwise served by a less restrictive means.
5. Authorizes a governmental entity or official to interfere with or usurp the fundamental right of parents to direct the upbringing, education, health care and mental health of their children only if the entity or official successfully demonstrates the compelling government interest of the highest order, narrowly tailored and least restrictive means requirements.
6. Requires the court, if the governmental entity or official is unsuccessful, to grant, based on the facts of the case and the law as applied to the facts:
 - a) appropriate relief, such as declaratory or injunctive relief;
 - b) compensatory damages; and
 - c) attorney fees.
7. Applies, to any institution, the classification of an attempt to encourage or coerce a minor to withhold information from the minor's parent as grounds for discipline.
8. Prohibits an employee of a governmental entity or any other institution from withholding from a minor's parent any information relevant to the physical, emotional or mental health of the minor, unless the information is subject to mandatory reporting requirements.
9. Deems, as grounds for discipline of an employee, in addition to any other remedies:
 - a) an attempt to encourage or coerce a minor child to withhold information from the child's parent; and
 - b) withholding information relevant to a minor's physical, emotional or mental health from the minor's parent.
10. Specifies that the Parents' Bill of Rights does not preempt or foreclose claims or remedies in support of parental rights that are available under the Arizona Constitution, Arizona statutes or Arizona common law.
11. Specifies that the reservation of parental rights to the parent of a minor, including those outlined in the Parents' Bill of Rights, is exclusive to the parent.

Education and Schools

12. Prohibits a school district or charter school employee from withholding or concealing information from or facilitating, encouraging or coercing students to withhold or conceal information from the student's parents about the student's physical, emotional or mental health unless the information is subject to mandatory reporting requirements.
13. Grants parents the right to access all written or electronic records of a school district, charter school or a school district or charter school employee concerning the parent's child and to all the child's electronic accounts including:
 - a) attendance records, grades and test scores of school-administered tests and statewide assessments;
 - b) extracurricular activities or club participation;
 - c) reports of behavioral patterns and disciplinary records;
 - d) counseling records and psychological records;
 - e) applications for admission;
 - f) health and immunization information, including medical records maintained by a health clinic or medical facility operated or controlled by the school district or charter school or located on school district or charter school property;
 - g) teacher and counselor evaluations; and
 - h) email accounts and online or virtual accounts or data.
14. Authorizes a parent to file suit in superior court against a school district or charter school that violates the prohibition against withholding or concealing information about physical, emotional or mental health or the parental right to access educational records and accounts.
15. Specifies that educational records and information access requirements do not preclude a parent from filing a suit asserting a violation of the requirements or any other claim otherwise allowed by law.
16. Allows a parent who successfully asserts a claim under the educational records and information access requirements to recover:
 - a) declaratory relief;
 - b) injunctive relief to prevent or remedy a violation or the effects of the violation;
 - c) reasonable attorney fees and costs; and
 - d) any other appropriate relief.
17. Requires school district governing board parental involvement policies to include procedures by which parents may learn about the right to access all written and electronic records of a school district or school district employee concerning the parent's child.
18. Removes the requirement that a survey be retained by a school district, a charter school or ADE for longer than one year for a school to be required to obtain a parent's written informed consent before administering to a pupil a survey that solicits personal information regarding specified categories.

19. Requires every school district and charter school, at least seven days before administering any survey, to provide a copy of the survey along with a written informed consent form and obtain consent for the survey, rather than requiring the school district or charter school to obtain consent at the beginning of every school year for the pupil's participation in any survey soliciting the outlined information for the entire year.

Health Care

20. Requires a health care entity to give a parent equivalent access to any electronic portal and any other health care delivery platform throughout the minority of the parent's child.
21. Specifies that a parent's right to make health care decisions for a minor child applies to all health care decisions.
22. Includes, in a parent's right to access and review a minor child's medical records, access to records for services not requiring parental consent, including records relating to:
- a) court authorization of an abortion without parental consent;
 - b) performance of an abortion without parental consent due to medical necessity or the minor certifying that the pregnancy resulted from sexual conduct by specified relatives of the minor or a person who lives in the same household with the minor and the minor's mother;
 - c) surgical procedures performed when an emergency exists or if a parent or legal guardian cannot be located or contacted after reasonably diligent effort;
 - d) mental health screening or treatment to prevent serious injury to or save the life of a minor child when an emergency exists;
 - e) hospital or medical care to diagnose or treat a venereal disease;
 - f) hospital or medical care for a minor who is at least 12 years old and is under the influence of a dangerous drug or narcotic; and
 - g) hospitalization, medical attention or surgery consented to by a person standing in loco parentis to a minor if the minor's parents cannot be located after reasonable efforts.
23. Specifies that a parent's right to access and review a minor child's medical records applies to written and electronic records.

Miscellaneous

24. Makes technical and conforming changes.
25. Becomes effective on the general effective date.

House Action

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| 3 rd Read | 2/24/22 | | 31-28-1 |

Prepared by Senate Research
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LB/slp